

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA

v.

No. 3:19-cr-00080-MO-1

TIMOTHY RAY VANCE,

OPINION AND ORDER

Defendant.

MOSMAN, J.,

This matter comes before me on Defendant Timothy Ray Vance's Motion to Reduce Sentence [ECF 41]. Specifically, Mr. Vance moves the court for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). Mot. to Reduce Sentence [ECF 41] at 1. For the following reasons, I DENY the motion.

DISCUSSION

Compassionate release is a statutory exception to the rule that a court may not modify a term of imprisonment once it has been imposed. 18 U.S.C. § 3582(c). Upon a proper motion, the court may reduce a term of imprisonment if, after considering applicable factors set forth in § 3553(a), the court finds that "extraordinary and compelling reasons warrant such a reduction" and the reduction is "consistent with applicable policy statements issued by the Sentencing

Commission.” 18 U.S.C. § 3582(c)(1)(A).¹ A defendant must exhaust administrative remedies before moving the court for compassionate release. *Id.* The Government concedes that Mr. Vance has exhausted his administrative remedies. Gov’t Resp. [ECF 44] at 2.

Mr. Vance argues that he is an appropriate candidate for compassionate release because he “is likely to suffer serious health repercussions if he were to contract COVID-19.” Mot. to Reduce Sentence [ECF 41] at 6. The Government argues that his conditions do not constitute an extraordinary and compelling reason that warrants compassionate release. Gov’t Resp. [ECF 44] at 2. The Government reasons that the Moderna vaccine, which Mr. Vance has received both doses of, “greatly reduces the risks of COVID.” *Id.* at 3.

I agree with the Government’s position. Although Mr. Vance suffers from serious medical conditions, the vaccine that he received has so far proven to be highly effective at preventing severe illness and death. *See When You’ve Been Fully Vaccinated*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html> (last updated August 19, 2021) (“COVID-19 vaccines are effective at preventing COVID-19 disease, especially severe illness and death.”) (“COVID-19 vaccines are safe and effective against severe disease and death from variants of the virus that causes COVID-19 currently circulating in the United States, including the Delta variant.”) Additionally, Mr. Vance is incarcerated at FCI Safford, which is currently reporting zero active COVID-19 cases among inmates. *COVID-19 Update*, Fed. Bureau of Prisons, <https://www.bop.gov/coronavirus/> (last updated August 19, 2021) (click “Full breakdown and additional details . . .” under “COVID-19 Cases”). Accordingly, I find that relief under 18 U.S.C. § 3582(c)(1)(A)(i) is inappropriate.


¹ At this time, however, “the Sentencing Commission has not yet issued a policy statement ‘applicable’ to § 3582(c)(1)(A) motions filed by a defendant.” *United States v. Aruda*, 993 F.3d 797, 802 (9th Cir. 2021) (per curiam).

CONCLUSION

For the foregoing reasons, I DENY Mr. Vance's Motion to Reduce Sentence [ECF 41].

IT IS SO ORDERED.

DATED this 23 day of August, 2021.


MICHAEL W. MOSMAN
United States District Judge